

REMARKS

Claims 1-6, 8-11, and 17-18 are pending in this application. Claim 7 was previously cancelled. Claims 12-16, which were previously withdrawn, are cancelled herein.

Claims 1-6, 8-11, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eberle (U.S. Patent 6,062,409) in view of Barrash *et al.* (U.S. Patent No. 6,048,423). In the Office Action, the Examiner avers that "Eberle discloses a beverage bottle having contours on the sides of the bottle where a label is positioned. The label would lie flush with sections of the bottle while parts of the label would be raised from the side of the bottle where the bottle curves inward leaving only a vacancy between the label and the bottle. Eberle only mentions where the label would be placed. Barrash *et al.* shows a label being placed on a beverage bottle using adhesive to hold. It would be obvious to one of ordinary skill in the art to use the process of Barrash *et al.* to secure a label to the bottle of Eberle. Eberle only discloses the apparatus to be a beverage bottle. It would be obvious to one of ordinary skill in the art that wine is a beverage and could be held by the container of Eberle." (See Office Action, page 2).

On October 16, 2003, representatives for the Applicant (i.e., Messrs Olsen and Christian) held a telephonic interview with the Examiner to discuss independent claims 1, 17 and 18. In the interview a tentative agreement was believed to be reached between the parties regarding proposed amending language to the claims. The proposed amending language included adding phrases such as "of said label" after the term "a raised portion" in the claims. An Interview Summary was subsequently provided.

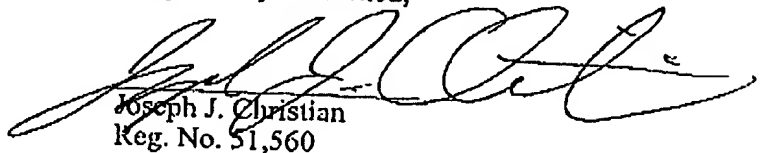
Applicant respectfully traverses the rejection of the claims, under the combination of Eberle and Barrash *et al.*, in that the Examiner has not proven a *prima facie* case of obviousness as is required under 103(a). For neither Eberle, nor Barrash *et al.* disclose, or teach, each and every element of the cited claims. Specifically, Eberle does not disclose *inter alia* "a raised portion of said label extending away from a surface of the container," as recited in independent claim 1. Also, Eberle does not disclose "having only a vacancy formed between the three-dimensional design of the label and the surface of

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the container," as recited in independent claim 6. Likewise, Eberle does not disclose *inter alia* "a raised ornamental portion of said label extending away from a surface of the container," as recited in independent claims 17 and 18. To the contrary, Eberle only discloses a container, wherein the container has undulations on it. Thus, in Eberle any vacancy(ies) between container and label are only caused by the depression of the container surface. There is no suggestion whatsoever in Eberle of having a label with a raised portion extending away from the container surface, nor of having a portion of the label including a three-dimensional design. Eberle makes no mention of adding ornamentation and/or any three-dimensional effect to the label itself. All labels in Eberle are smooth, "traditional" labels. Further, Barrash *et al.* does not remedy this glaring deficiency in Eberle. Because Applicant contends independent claims 1, 6, 17, and 18 are in condition allowance, logic dictates that dependent claims 2-5 and 8-11 are similarly in condition for allowance.

Accordingly, Applicant respectfully requests withdrawal of all rejections, and submits that the entire application is in condition for allowance. However, should the Examiner believe anything further is necessary in order to place the application in better condition for allowance, or if the Examiner believes that a telephone interview would be advantageous to resolve the issues presented, the Examiner is invited to contact the Applicant's undersigned representative at the telephone number listed below.

Respectfully submitted,


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